

OPINION
51-73

June 26, 1951 (OPINION)

HAWKERS AND PEDDLERS

RE: Sale by Sample

In your letter of June 13 you ask for an interpretation of chapter 51-03, N.D.R.C. 1943 with respect to hawkers and peddlers, particularly in regard to the sale of agricultural products from farm to farm where such peddlers carry the seed with them or merely a sample and promise delivery at a later date by common carrier.

Insofar as licenses are concerned, the law provides no exemption for agricultural products. Such peddling and hawking comes within the purview of the statute and under the law as interpreted in the case of the Town of Green River v. Fuller Brush Company, 65 F.2d. 112, 88 A.L.R. 177, the business of peddling and hawking is a matter of interstate commerce where such goods are delivered by common carrier and passes through the borders of states. A political subdivision of the state cannot prohibit agents of out of state concerns from taking orders for merchandise and later delivery. This is interstate commerce and state laws cannot regulate it.

It is, therefore, our opinion that the State Seed Commissioner can only regulate hawking and peddling by means of utilizing the seed laws as they are now upon the statute books in regard to labeling, grading, advertising, etc.

ELMO T. CHRISTIANSON

Attorney General